

# CASE 22708



APPEAL OF DRC DECISION TO HRM COUNCIL  
1325 LOWER WATER STREET, THE CUNARD BLOCK

# AGENDA

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- The Appeal of Case 22708 – Executive Summary & Recommended Motion
- Our Motivation – This is not NIMBYism!
- 5 Broad Reasons for Accepting Our Appeal
  - 1) Halifax Staff Recommended to Reject
  - 2) Irregularities at DRC Meeting of July 30, 2020 cast doubt on integrity of the meeting
    - Applicant Involvement in Debate
    - DRC actions
  - 3) The Qualitative Aspects of the Design Fail to Meet Design Requirements
  - 4) The Requested Variances Fail to Meet Design Manual Acceptance Criteria
  - 5) Other – Collection of Additional Concerns
- Summary Argument and Your Duties

# Executive Summary

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As Appellants we intend to demonstrate that the right choice is to **accept the appeal**.

We will begin by reviewing the expert report prepared by HRM staff that recommended denial.

The staff report from 22-June-2020 was comprehensive and correct.

Then we will go through the DRC July 30 meeting and demonstrate numerous irregularities that occurred which should cause you to rule out their decision to approve

–correspondence was sent to the DRC Committee pointing out the issues prior to the September 10 meeting when the July 30 Minutes were approved (part of your correspondence package)

We will present the many, many reasons why this building should not be approved.

Finally we will be making a recommendation for your motion as follows: (next slide)

# Executive Summary cont.

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**Accept the appeal**

# This Appeal is Not NIMBYism!

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We strongly question the decision of the DRC on July 30

Development rules allow a building to be built and we accept that.

Every development in downtown must follow the rules set out in the Design Manual and the Land Use Bylaws.

These rules are the offshoot of HRMbyDesign. A collaborative effort of thousands of Haligonians over many years which set the ground rules for shaping our city for generations to come.

This design does not follow the rules – and as such we fight assertively to overturn the decision of the DRC

**Only property owners in the 30 meter area can appeal.**

# Reason #1

HRM Staff Recommended to  
Reject

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# HRM Staff Report, 22 June 2020

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Staff Recommendation = REJECT the application

Application did not comply with:

- 8 Sections of the Design Manual  
(Sections 2.1c, 2.10i, 3.1.1a, 3.2.1a, 3.2.1f, 3.2.5a, 3.3.1b and 3.3.1c)
- 6 of 9 Variances requested did not comply with Design Manual Requirements  
(Sections 3.6.6, 3.6.7, 3.6.8, and 3.6.10)
- Notable Shortcomings:
  - Waterfront side of building does not meet high quality req'd from 3.4.1.b Prominent Civic Frontage
  - Lower Water Street side does not meet requirements for pedestrian engagements (ie. Storefronts)

# HRM Staff Report Findings:

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Staff do not consider this proposal to be reflective of the design intent of the Design Manual and advise that it **does not meet the intent of a prominent civic frontage** due to the size of the building, the lack of articulation and animation on Lower Water Street, the lack of a narrow point tower and the inability of the proposal to meet the requirements of the Design Manual and Land-use Bylaw.



*- HRM Staff Report on 1325 Lower Water Street, June 22, 2020*

# HRM Staff Report Findings:

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“ Staff advise that the proposed development and the requested variances are not reasonably consistent with the objectives and guidelines of the Design Manual. Staff note that the number of variances, and the scale of each variance suggest that **the proposed building is too large** for the site given the requirements of the Land Use By-law. Further, any attempt to shift the building around on the site in its current form, results in the triggering of a new set of variances. Therefore, it is recommended that the substantive site plan approval application be refused. ”

- HRM Staff Report on 1325 Lower Water Street, June 22, 2020

# Changing Times

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The Pandemic has changed how we interact and live our lives

Employees working from home. How will this impact our future?

Climate change is creating environmental change

We believe this is the wrong time to make such an important decision

This very large building will change the Halifax skyline and the Waterfront forever.

# Reason #2

## DRC Meeting Irregularities 30 Jul 2020

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# Applicant Abuse of Process, 30 July 2020

Applicant’s Team abused rules of order:

- Interjected at will
- Participated actively in the debate
- Interrupted the Chair
- Directed the DRC
- Wrote part of the motion
- Only reprimanded once by staff
- Continued to participate at will following reprimand without consequence

Time	Violation
3 hr 01	The applicant’s team wrote section 1.d of final approved motion
3 hr 04	The applicant interrupted chair to change wording of motion
3 hr 33	The applicant interrupted to inform committee that rejection of variances would lead to redesign
3 hr 35	The applicant’s team attempted to guide DRC on how to proceed with regards to variance #6
3 hr 39	The applicant’s team encouraged DRC to disregard Design Manual and LUB rules they are required to follow
3h 46	The applicant’s team offered contrived explanation for accepting Variance 6 (prow of a ship) which was accepted at face value
Meeting Start	The applicant’s team spoke for 26 minutes when allotted only 10 minutes

*Times are per the audio of the meeting provided by HRM staff:  
<https://goanywhere.halifax.ca/pkg?token=ea244b59-c1e3-4da7-9a4d-d416136f6896>*



# Applicant Abuse of Process, 30 July 2020

Question for HRM Council to ask themselves:

1. Would you ever allow this to happen at a Regional Council meeting?
2. Do you believe the applicant had improper influence at the meeting?
3. Do you believe the rules were followed?
4. Was city business conducted properly?
5. This decision impacts the skyline of Halifax forever - Should the decision stand or should it be thrown out?

# DRC Committee Performance, 30Jul2020

From listening to the audio we note:

- The meeting lasted 4.5 hours
- Only 8 members of the committee attended
- Only 6 members of the committee participated in the final vote
- 2 of the members who voted should have abstained for lack of competence (see 2h 46 & 3h35)
- 4 of the members who voted were participating in their first ever site application process
- Members lacked general knowledge of their duties, the rules and underlying processes
- There was a lot of confusion
- Demonstrated lack of objectivity when judging the application (see 3h28-3h46)

Time	Observation
2h46	DRC Member acknowledged they “are not fully prepared” to vote. They abstained from initial vote. They continued and voted to approve final motion
3h35	DRC Member acknowledged being “thoroughly unprepared” for their duties. Continued and voted to approve
3h28 to 3h46	Members of the committee liked the project and wanted to approve it, yet the rules were not allowing them to approve the project.
	DRC members expressed disappointment that the rules prevented them from approving the project
	DRC members described LUB and S-1 rules as putting them “between a rock and a hard place”
	DRC members expressed desire not to “impose” on the applicant by causing a redesign
>3h46	DRC Committee voted to approve the project even though audio implies members knew that the justification did not withstand scrutiny yet proceeded anyway

*Times are per the audio of the meeting provided by HRM staff:*

<https://goanywhere.halifax.ca/pkg?token=ea244b59-c1e3-4da7-9a4d-d416136f6896>



# DRC Committee Performance, 30Jul2020

We asked questions of clarification in correspondence with the DRC on 4 September, 2020 and have not heard a reply. DRC has met twice since then (Sept 10, Sept 24)

We asked the following process questions, which we feel are reasonable:

1. Were all of the members at the meeting felt they were fully prepared, trained and competent in use of the Design Manual, LUB and site approval process prior to participating in the meeting on July 30, 2020
2. Did any of the member of the committee feel that the applicant overstepped and influenced the meeting and/or the decision of the DRC?
3. How come the two members who declared they were unprepared continued to participate? In retrospect do they feel that they should have abstained?
4. How come the applicant was allowed to interject so regularly? Did members feel this was improper?

We also asked for rational for approving Case 22708:

1. Re: Variance #6 could you please explain how this part of the building qualifies as a 'landmark architectural element' in downtown Halifax
2. Re: Variance #3 Are you able to provide an explanation of what the "clear public benefit" is?
3. Re: Qualitative aspects:– Please provide your reasoning on how the design meets 3.4.1 b, 2.10 e and 3.2.1 a/f

# OUR CONCLUSION

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1. The applicant abused the rules of order to their benefit and likely influenced the decision of the DRC
2. The DRC failed to carry out their duties in accordance with legislation
3. The process by which city business was conducted lacks integrity

## REQUEST

**WE RESPECTFULLY ASK THAT REGIONAL COUNCIL  
DISREGARD THE DRC DECISION IN ITS ENTIRETY**

# Reason #3

The Design Fails To Meet Qualitative Aspects of the Design Manual

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# Qualitative Aspects

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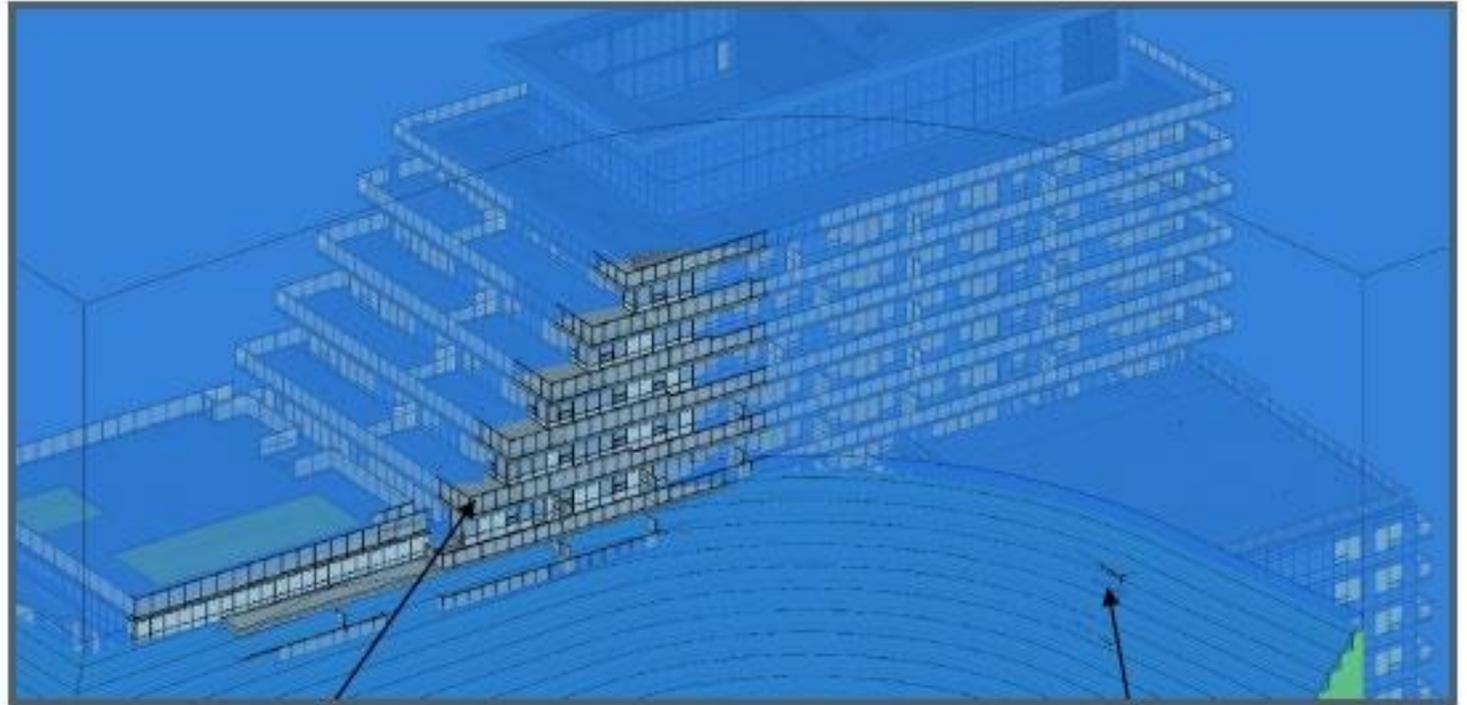
In the Staff Presentation made to the Design Review Committee on July 30, 2020 at the Design Review Committee Special Meeting, City Staff recommended on Slide 31 that the Committee:

“Refuse the qualitative elements of the substantive site plan approval application for a 16 storey, with rooftop penthouse, mixed use building, in Downtown Halifax as shown in Attachments A and B as the proposal does not comply with Sections 2.1c, 2.10i, 3.1.1a, 3.2.1a, 3.2.1f, 3.2.5a, 3.3.1b and 3.3.1c of the Design Manual, as noted in Attachment E.”

# Qualitative Aspects (Item 2.10i)

## 2.10 i

“Ensure building height immediately adjacent to the 8 meter setback shall not be higher than 12.5 meters. Height may increase as distance from the boardwalk or the water’s edge increases at a rate of approximately one meter of vertical height for every one meter of horizontal stepback from the boardwalk or water’s edge.”



Portions of the north-east building face on levels 12, 13, 14, 15 and 16 that are within 30 metres of OHWM and over the required 33.7 metres of building height limit require this variance.

Portion of the railing that is over the required 31.37 metres of building height and within 30 metres of OHWM setback requires this variance.

# Qualitative Aspects (Items 3.1.1a, 3.2.1a, 3.2.1f, 3.2.1g)

**Item 3.1.1a** -- “The articulation of narrow shop fronts, characterized by close placement to the sidewalk.”

**Item 3.2.1a** -- “The streetwall should contribute to the ‘fine-grained’ character of the streetscape by articulating the façade in a vertical rhythm that is consistent with the prevailing character of narrow buildings and storefronts.”

**Item 3.2.1f** -- “Streetwalls should have many windows and doors to provide ‘eyes on the street’ and a sense of animation and engagement.”

**Item 3.2.1g** -- “Along pedestrian frontages at grade level, blank walls shall not be permitted, nor shall any mechanical or utility functions (vents, trash vestibules, propane vestibules, etc.) be permitted.”

## ASSESSMENT

- The design does not provide narrow retail shops and the articulation is neither fine grained nor vertical. There are insufficient windows at street level. Instead, large panels are presented. It appears from the plan that significant sections of this elevation have not been animated and that the planters are insufficient to break up the blank wall.
- This means that the development does not provide an appropriate street side environment along Lower Water Street that would provide enjoyment to pedestrians and enhance street level life along this portion of Lower Water Street.
- The view from the surrounding buildings is of the parking garage walls which are large featureless walls that impose a monolithic feeling to the development. Further, the building is completely out-of-character in comparison with surrounding buildings.



## Qualitative Aspects (Items 3.1.1a, 3.2.1a, 3.2.1f, 3.2.1g)

- Alternatives could be considered, such as placing the garage behind rows of residential units facing Lower Water Street. This would provide vertical and horizontal articulation.
- The appearance of current street-fronts along Lower Water Street should be taken into consideration, and effort made to maintain the look and feel of the existing neighbourhood.
- Note that this has already been done successfully by other new developments in the neighbourhood. For example, the new complex with a tower built adjacent to the old Alexander Keith's brewery has preserved the look and feel of the Brewery Market by using stone tile on the lower levels similar in look to the old stone of the Brewery Market and has a mix of commercial storefront, garage entrances, bicycle parking, and building entrances that add vertical articulation to the lower levels.
- The lack of small commercial outlets on the ground floor prevents a more active pedestrian environment, and is also a loss of business opportunity for the local neighbourhood.
- Why not emulate previous neighbourhood success?

**Request:** How do you intend to ensure that these deficiencies are corrected?

# Qualitative Aspects (Item 3.2.5a)

**Item 3.2.5a** -- “Maintain active uses at-grade, related to the sidewalk, stepping with the slope. Avoid levels that are distant from grade.”

- the city planning staff commented that "The restaurant portion of the building is separated from grade. Entryway was provided at street level to activate that section of street level, but large sections of frontage still remains inactive. Active art installation proposed to respond to this, but no detailed information provided as to what this will be."
- This is again a shortcoming in not providing an adequate street-level environment for both building occupants and surrounding citizens. This produces a street-side environment that is out-of-character with the rest of Lower Water Street and is relatively featureless and bland.
- The absence of active uses at street level detract from possible business uses and opportunities and detract from the economy of the Halifax Waterfront. The absence of active uses represents a lost opportunity for the local economy.

# Qualitative Aspects (Items 3.3.1b and 3.3.1c)

**Item 3.3.1b** -- “Buildings should seek to contribute to a mix and variety of high quality architecture while remaining respectful of downtown’s context and tradition.”

**Item 3.3.1c** -- “To provide architectural variety and visual interest, other opportunities to articulate the massing should be encouraged, including vertical and horizontal recesses or projections, datum lines, and changes in material, texture or colour.”

- City Staff noted that "The building does not respond to the existing context and fine grained character of downtown. The buildings downtown are smaller scale and provide more articulation at the street level with narrow retail frontages at the street edge" and that there is insufficient articulation in the upper portions of the building.
- This states clearly that the proposed building is out-of-character for the region of the downtown in which it would be located. This also indicates that there are fewer retail outlets in the proposal than might otherwise be possible within a building of that size.
- This represents a lost opportunity for retail business in the downtown core and the Halifax Waterfront.

# Qualitative Aspects cont.

REASON #3 – QUALITATIVE ASPECTS

## 3.4.1.b Prominent Civic Frontage

The water front side is considered Prominent Civic Frontage and therefore there is an especially high design standard to be met that includes:

“Exceptional visibility”

“Signature or landmark architectural treatments”

“Reinforce Precinct identity”

“Greater civic responsibility”

“Highest possible design”

“Distinctive articulation”

“Distinctive Architectural features”

## Examples of Distinctive Architecture



**In our view, the current design is generic and is not distinctive enough. The Design Manual requires an exceptional design at this location**

# Qualitative Aspects (Summary)

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- In these economically challenging times surely a primary focus of any new development should be how it may contribute to and improve the local Halifax economy. While this development does bring potentially a few hundred new consumers to the Halifax downtown, this development appears to miss an important opportunity by not maximizing the commercial business opportunities that it might otherwise afford along Lower Water Street and the Halifax Waterfront.
- The proposed development presents an undesirable monolithic appearance to pedestrians and to the occupants of surrounding buildings which is out-of-character for that area of the Halifax downtown, and does not respect the character of the neighbourhood.
- The shortfalls highlighted by City Staff in their report to the Design Review Committee should be addressed to resolve these issues.
- It should be noted that in accordance with item 3.4.1b, the waterfront side is considered 'Prominent Civic Frontage' which has the highest design standards and greater civic responsibility that requires design flourishes.

# Reason #4

## Variations Do Not Meet Acceptance Criteria

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# Variance # 3 – Tower Separation

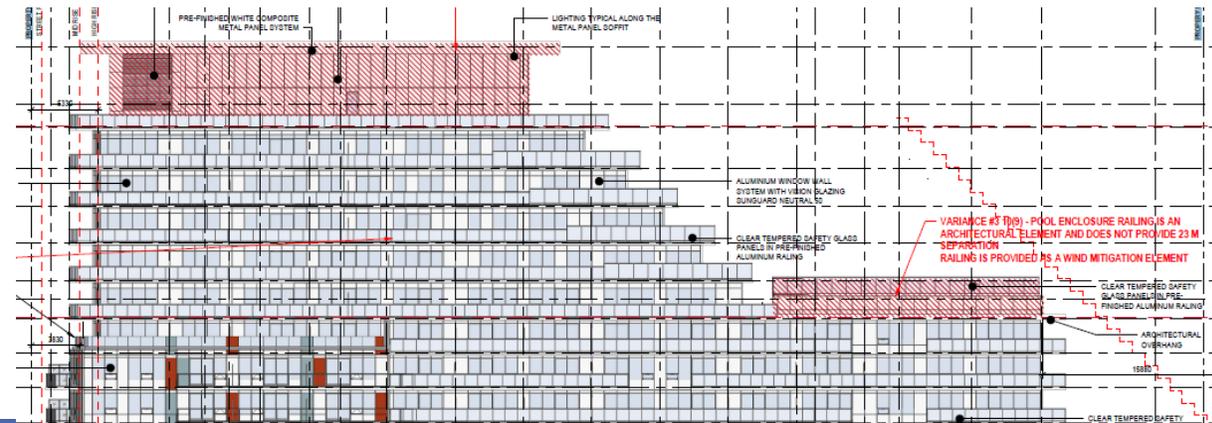
**Section 10(9)** requires that any portion of a high-rise building above a height of 33.5 m shall be separated from another non residential portion of the building by a minimum of 23 m.

The variance was approved by the DRC on July 30, 2020 based on:

3.6.7a - that the design is consistent with the objectives and guidelines of the Design Manual; and  
 3.6.7b – the modification results in a clear public benefit  
*We note that both the applicant (page 16 of the Cunard Block Downtown Land Use Bylaw Review document) and the city staff report say that this variance is required to provide wind protection for the benefit of the residents for the 12<sup>th</sup> floor amenity space (pool deck). Providing wind protection for residents is a private benefit, not a public one.*

**The only benefit is a private benefit for the users of the private pool.**

**If you agree that wind protection for pool users is not a public benefit then you (HRM council) must reject this variance**



# Variations #4 & #8 Tower Width/Depth

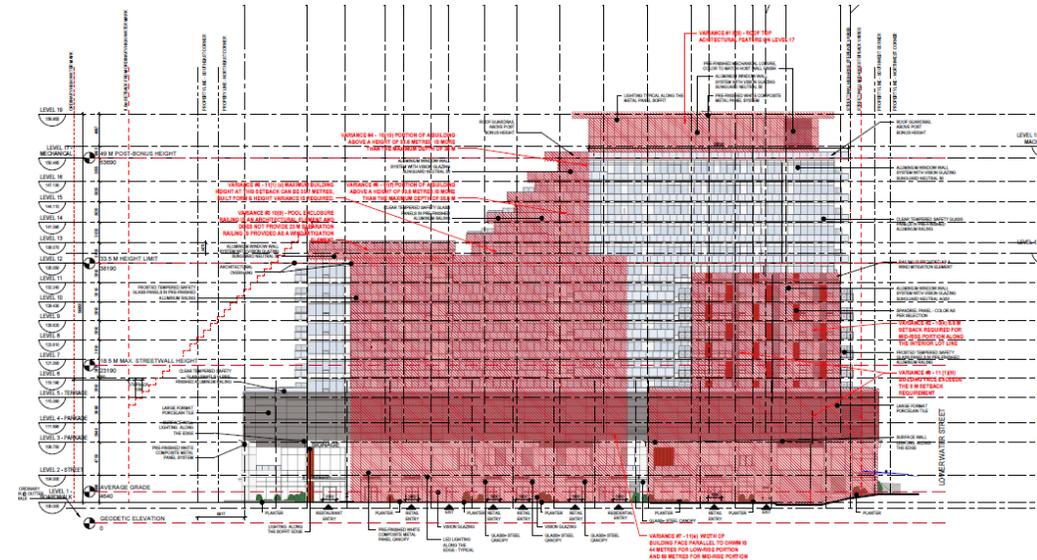
These two variations refer to the high-rise tower being both too wide and too deep. the overarching goal of the Design Manual with respect to these variations is to have tall, slender towers on the waterfront for enhanced sunlight and view planes (2.1 (c))

**Variance #4 - Section 10(10)** states that buildings shall be a maximum width of 38 m and a maximum depth of 38 m.

**Variance #8 - Section 11(1)f** requires that the maximum width of any portion of a building above a height of 33.5 m shall be 21.5 m parallel to Lower Water Street and a maximum depth of 38.5 m

The actual width of the tower is 53.4 m.

**40% wider than allowed per the Design Manual!**



# Variations #4 & #8 Tower Width/Depth

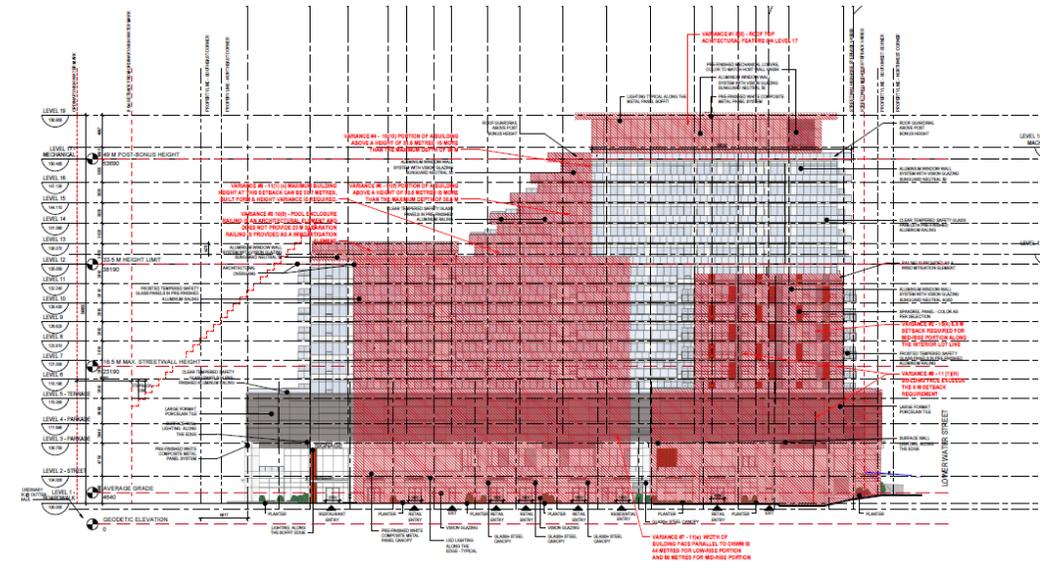
This variance was approved by the DRC on July 30, 2020 based on:

- 3.6.7a - that the design is consistent with the objectives and guidelines of Design Manual (i.e. section 2.1(c) );
- and
- 3.6.7b – the modification results in a clear public benefit

We disagree with this assessment. The wider towers encroach on sightlines and create more shade on the plaza. There is no benefit!

**Question – what exactly is the clear public benefit?**

**If you (HRM Council) do not see the public benefit then you must reject these variances!**



# Variations – Variance 6, Tower Height

## Section 11(1)c

That the maximum height of a building within 30 m of the OHWM (Ordinary High-Water Mark) is 12.5 m, which may be increased by 1 m for each additional metre of setback from the OHWM.

The DRC approved the variance under :

3.6.8d-where a landmark building element is provided pursuant to the Design Manual  
*The argument was that the tower was a prow of a ship, therefore a landmark*

We believe this sets a low bar for architectural landmark.  
 The Town Clock and the Central Library are landmarks.  
 Most reasonable people would agree that this is not “landmark”

**Question – Do you believe the tower is truly a “landmark element” in downtown Halifax?**

**If you (HRM Councillor) don’t believe this is a landmark element then you must reject this variance!**



# Reason #5

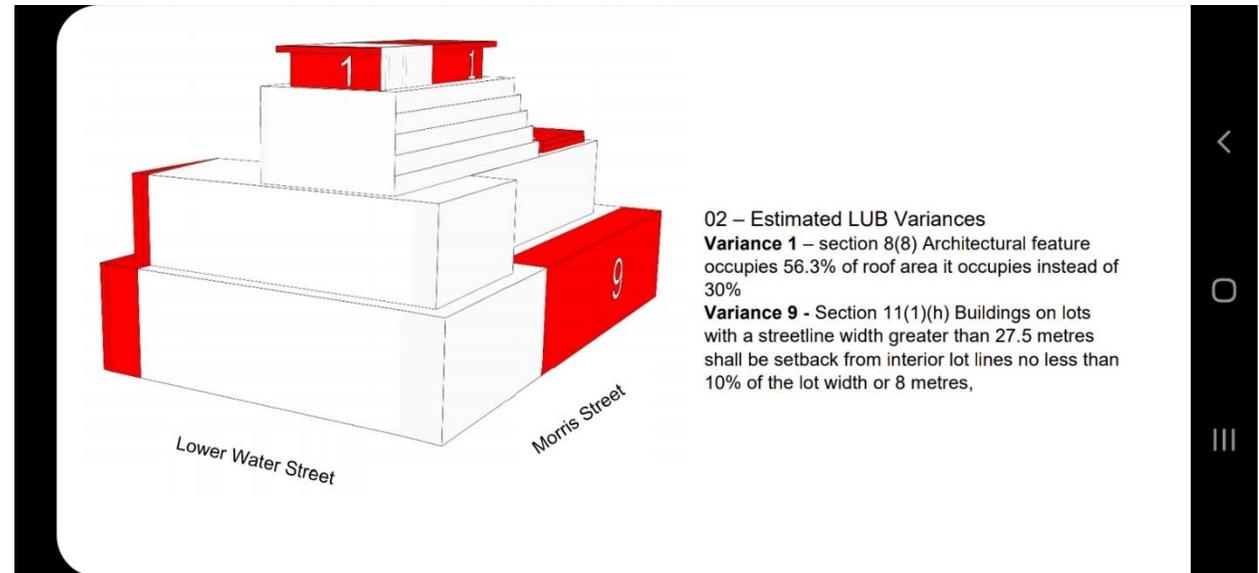
# Other Considerations

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# Variations

## Variance 1 - Building Height –

This “architectural feature” more commonly referred to as a mechanical room, is as large as it is mainly due to variances 4 and 8- the additional tower width and depth. This is essentially a variance needed due to a variance.



# Variations and Bonus Zoning

Variance 2 – Mid-Rise Building Section 10(4)

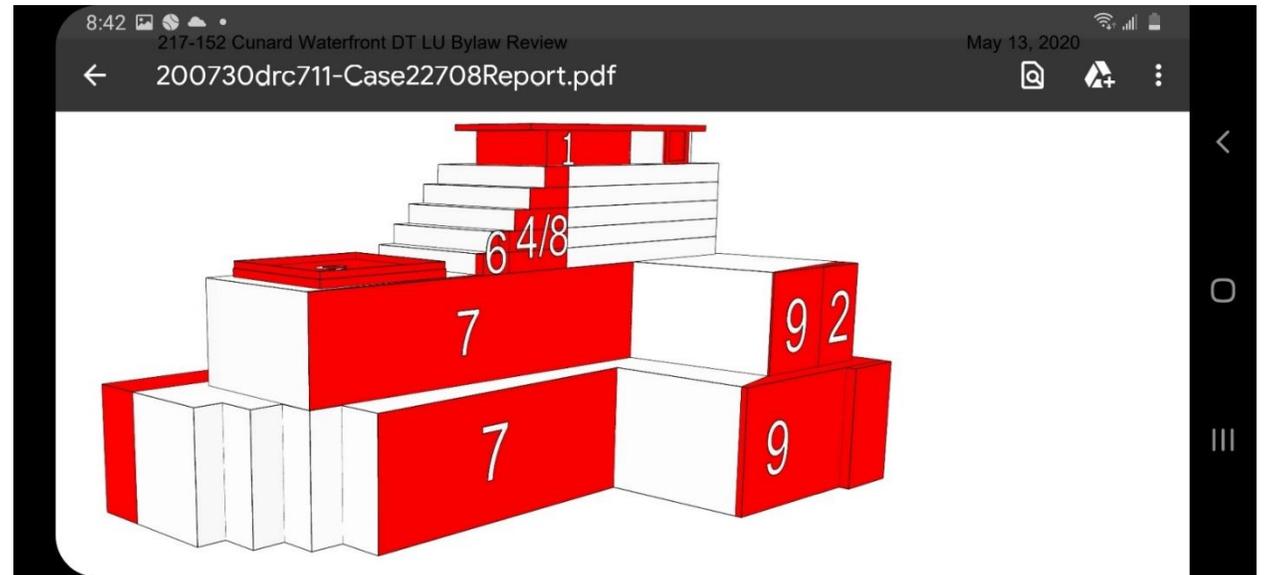
The city Center Plan Package A states

“4.2.2 WATERFRONT VIEW CORRIDORS View corridors preserve key public views of the Harbour from public streets, maintaining long-standing opportunities for pedestrians to visually connect with the water and historic resources falling within those views. Views to the Halifax Harbour waterfront will be protected in This Plan.”

Ignoring The required setbacks in order to provide Luxury accommodations for the city’s elite is not in keeping with the city center plan. I do not think the public would want to reduce their view corridors to provide profit for developers and luxury accommodations for the wealthy.

22 meters x 5.5 meters x 5 levels

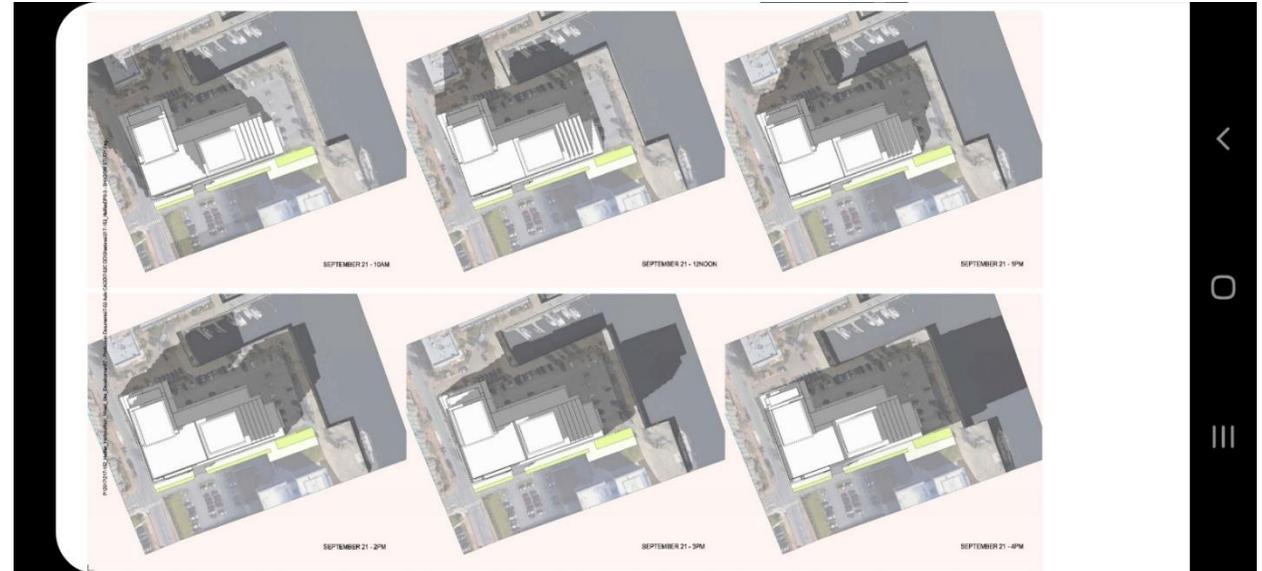
Approximately 605 square meters bonus zoning



# Variations and Bonus Zoning

I ask you to carefully consider the negative effects this development may have and the missed opportunity to create a valuable public space that could be provided if the applicable legislation were followed - a place for the enjoyment of both local residents and the tourism sector.

Who stands to benefit from this development? The developer and future residents of the luxury apartments. Is this an appropriate use of provincial land?



# Variations and Bonus Zoning

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All of the variations represent bonus zoning as defined by the Halifax municipal charter. Essentially by approving variations you are trading the existing public benefits of view planes, and sunshine for development that will add the unwanted effects of increased wind, shadow, noise, traffic, and view planes. The current legislation has been put in place using extensive public consultation to obtain a balance between future development and the public benefit.

City staff have recommended that the Design Review Committee: **Refuse the qualitative elements** of the substantive site plan approval application for a 16 storey, with rooftop penthouse, mixed use building

I ask that you **support the decision of city staff** and refuse the 5 variations in the city staff report

# City Center Plan Package A & Municipal Charter

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The City Center Plan Package A, REGIONAL CENTRE LAND USE BY-LAW (PACKAGE A) and the Halifax Municipal Charter. We are counting on the councillors here today to set thing right and see that all applicable legislation is followed.

I think the slogan during the creation of the city center plan was “shape your city” There has been hundreds of thousands, if not millions of taxpayer dollars spent producing the City Center Plan. This Plan is a statutory document under the HRM Charter which guides decisions about the location, type, and form of future development. It was guided by the Regional Plan, background technical studies, and an extensive community engagement process. All of which has been ignored.

# Variations and Bonus Zoning Calculations

REASON #5 – OTHER CONSIDERATIONS

No bonus calculation has been submitted by the applicant. I calculate the approximate value of the bonus zoning as follows.

- Variance #1= Approximately 480 square meters bonus zoning
- Variance #2= Approximately 605 square meters bonus zoning
- Variance #3= Approximately 760 square meters bonus zoning
- Variance #4&#8= Approximately 662 square meters bonus zoning
- Variance #5= Approximately 129 square meters bonus zoning
- Variance #6= Approximately 100 square meters bonus zoning
- Variance #7= Approximately 8350 square meters bonus zoning.
- Variance #9=Approximately 748 square meters of bonus zoning

The maximum pre-bonus height for the Cunard lot is 39m the maximum post bonus height is 49 meters. The additional bonus equates to an additional 4 tower levels. The maximum allowable depth is 38m. The maximum allowable width is 38 meters.

“12(1) A building that exceeds the Maximum Pre-Bonus Height as shown on Map 4 shall be required to provide a public benefit on the lot equal to a value of not less than \$4.00 per 0.1 square metre of gross floor area for all or part of any storey above the Pre-Bonus Heights. Where it is not feasible to provide the public benefit on the lot being developed, the developer shall provide the benefit off-site as may be agreed between the Municipality and the developer.”

**4 levels x 38 meters x 21.5 meters= 3,268 square meters /0.1 x \$4.00 = \$130.720.00**



# Public Engagement

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- Failure to follow the HRM Community Engagement Strategy: all community engagement regarding these variances has been one sided, with no opportunity for the public to voice concerns.

## HRM Community Engagement Strategy

### “2.1 Defining Community Engagement

Community engagement can be defined as “the process of working collaboratively with and through groups of people to enact positive action. It includes information sharing, consultation and active involvement in decision making”.

Residents expect to be involved in the decisions that affect them, and citizen involvement in deliberations about what is important to them, how their community grows and develops is crucial to more informed government decisions and better service delivery. Effective public engagement taps into the collective knowledge and wisdom of residents and contributes to building more connected, harmonious and resilient communities. When people are involved in initiating and promoting change, the resulting solutions tend to be more successful and lasting.

Community engagement is fundamental to local representative democracy; “Exclusion, however, “is the shadow of public engagement” 2 and engagement that is too numerous, poorly designed and poorly executed can discourage or even silence significant portions of the community. Each situation requires a tailored approach to engagement. The onus on HRM is to honour local values and traditions, to use a strategic approach to community engagement, to facilitate effective engagement and to clearly communicate to the public the purpose and scope of engagement. It is important to recognize that in a vast majority of cases the final decision rests with the elected municipal representatives – the HRM Regional Council.”

# Public Engagement

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Three meetings – 2009, 2014 & 2019 I personally attended all 3

ONLY the 2009 meeting at Maritime Museum of Atlantic gave the opportunity for questions & input

September 17 Request of Develop NS for public consultations information– NO RESPONSE

Cunard lot is **crown land** – a collective asset which belongs to all of us

Only property owners within 30 metres of Cunard Lot could appeal plans for its use!

# HRM Staff Report Findings:

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Staff advise that the proposed development and the requested variances are not reasonably consistent with the objectives and guidelines of the Design Manual. Staff note that the number of variances, and the scale of each variance suggest that **the proposed building is too large** for the site given the requirements of the Land Use By-law. Further, any attempt to shift the building around on the site in its current form, results in the triggering of a new set of variances. Therefore, it is recommended that the substantive site plan approval application be refused.



- HRM Staff Report on 1325 Lower Water Street, June 22, 2020

# Cunard Lot History

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Member of Waterfront Development Board in 2011 when WDC reclaimed possession of Salter Block as Developer had not demonstrated activity for several years

A 49 metre building is now approved when the Developer was given permission to build 6 storeys

Traffic noise concerns – up to 80 transports/ daily

15 years ago I sat on a Committee to establish new routes – no changes yet!

**The HRM Planners had it right- deny the application!**

# Rising water & flooding – Dorian 2019

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REASON #5 – OTHER CONSIDERATIONS



# Crown Land Lease?

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Does the Crown Lands Act & Guidelines for leases on Crown Land apply to Cunard lot?

Awaiting clarification from Minister of Justice, Mark Furey

**Clarification needed before proceeding**

# Wind Impact Study

There is evidence Waterfront place already suffers from the negative impacts of wind and wind driven rain speeds being drastically increased due to the **wind funnel (or channeling)** effect from existing structures on the waterfront. During hurricane Dorian there were over 100 windows in the Waterfront Place building that had wind driven rain blow right through the window mainly in specific areas along the Lower Water Street face of the building. This resulted in property loss and months of invasive repairs. We have been in touch with RWDI. They are the same engineering firm used for the pedestrian wind impact study for the proposed 1325 Lower Water Street Development. They have confirmed that there is the potential that the proposed 1325 Lower Water Street Development could cause a channeling effect resulting in increased wind speeds. They have provided a quote of \$7500.00 to determine the impact that a neighbouring development may have on the local wind environment. Specifically, what effect the proposed 1325 Lower Water Street development may have on the existing 1326 Lower Water Street building. It should not be the responsibility of the Waterfront Place residents to pay for or engage in a contract for something that is specifically addressed in the Land Use By-laws. The Land Use By-law state “the committee shall review wind impact assessments as per Schedule S-2.” “Any building or building addition resulting in a height exceeding 20 metres shall only be permitted following consideration of its wind impact pursuant to the performance standards in Schedule S-2.” which states “The wind impact assessment shall address: (a) Existing conditions, accounting for buildings and other physical features on the lot and any surrounding buildings and features that may influence the development or that may be influenced by the development. (b) The impact of the development on the following areas (RC-Mar 26/13;E-Apr 13/13): (i) the public realm, including parks, plazas, and other open spaces, sidewalks and other pedestrian traveled ways, building entrances; and (ii) private amenity spaces such as rooftop gardens. (c) The expected level of comfort for various activities associated with the above-noted areas with regard to factors such as sitting, standing, and walking. (d) The methodology and standards used in the assessment.

# Wind Impact Study Requirements

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The Land Use By-law states “the committee shall review wind impact assessments as per Schedule S-2.” “The wind impact assessment shall address: (a) Existing conditions, accounting for buildings and other physical features on the lot and any surrounding buildings and features that may influence the development or that may be influenced by the development. (b) The impact of the development on the following areas (RC-Mar 26/13;E-Apr 13/13): (i) the public realm, including parks, plazas, and other open spaces, sidewalks and other pedestrian traveled ways, building entrances; and (ii) private amenity spaces such as rooftop gardens.

# Wind Impact Study (Comments)

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- The influence of winds on the surrounding buildings was NOT studied;
- This influence can be considerable, especially in extreme weather;
- Wind speeds up to the equivalent of 93 km/h were measured as indicated in Table 1 of the Pedestrian Wind Study report from RWDI;
- On the other hand, extreme weather events may create wind speeds much higher than this. This is justified by recent experience. Hurricanes do pass through Nova Scotia, as Dorian hit Halifax and Teddy passed close by Halifax;
- Halifax was hit head-on by hurricane Juan in 2003. During Juan, winds of up to 155 km/h were recorded in the Halifax region with wind gusts estimated to be as high as 230 km/h (see Wikipedia - Hurricane Juan).

# Wind Impact Study (Comments)

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- Full-scale winds of 250 km/h should be simulated in the wind-tunnel to simulate hurricanes;
- The wind effects on the surrounding buildings need to be assessed by instrumenting the surrounding buildings in the wind tunnel model;
- As it currently stands, there is no information on the effect of winds on surrounding buildings due to the influence of the proposed development;
- The concern is that these phenomena will be pronounced, and possibly excessive, for surrounding buildings during an extreme weather event;

# Wind Impact Study (Comments)

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- The Pedestrian Wind Study speaks of two phenomena: "Downwashing Flow" that redirects wind from high levels down towards street level; and "Corner Acceleration" that occurs when wind flows around the corners of a building. Both of these phenomena accelerate the flow of air causing higher local wind levels.
- The combination of downwashing flow and corner acceleration due to the tower are part of the reason that the simulated terraces at levels 11 and 12 experienced higher than acceptable wind velocities on the north-east side of the proposed development during the wind tunnel tests of the pedestrian study.

# Wind Impact Study (Comments)

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- Accelerated flow around the proposed development would directly impinge upon Waterfront Place. This means a worst case would be that wind gust speeds upon Waterfront Place could be in excess of 230 km/h during an extreme weather event;
- There is a very strong possibility that this would cause damage to the exterior and interior of Waterfront Place. This is true of other surrounding buildings as well. The driving rain in such high winds would infiltrate the water sealing of the buildings. This was already observed during hurricane Dorian at which time there were over 100 windows in the Waterfront Place building that had wind driven rain blow right through the window mainly in specific areas along the Lower Water Street face of the building.

# Wind Impact Study (City Staff Response)

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- Development will result in comfort levels suitable for persons sitting, standing, or walking at the sidewalk level;
- Study indicated higher than desired wind activity for the outdoor amenity areas located on levels 11 and 12:
  - Mitigation proposed include trellises, stand alone canopies and landscaping at level 11;
  - Mitigation proposed include canopies and tall porous railings of at least 2m and 20-40% porosity, at level 12;
  - RWDI confirmed that the proposed mitigation will respond to wind issues.

# Wind Impact Study (Comments)

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- A wind tunnel study to investigate extreme weather events would clarify what are the actual wind speeds that could be expected, and this would provide guidance for mitigating these effects;
- As it currently stands, extreme weather events pose a potential liability for the proposed development, should future weather events manifest problems to the development itself and to the surrounding buildings. This should not be ignored: these extreme events have happened in the past, and will inevitably occur again in the future;

# Wind Impact Study (Recommendations)

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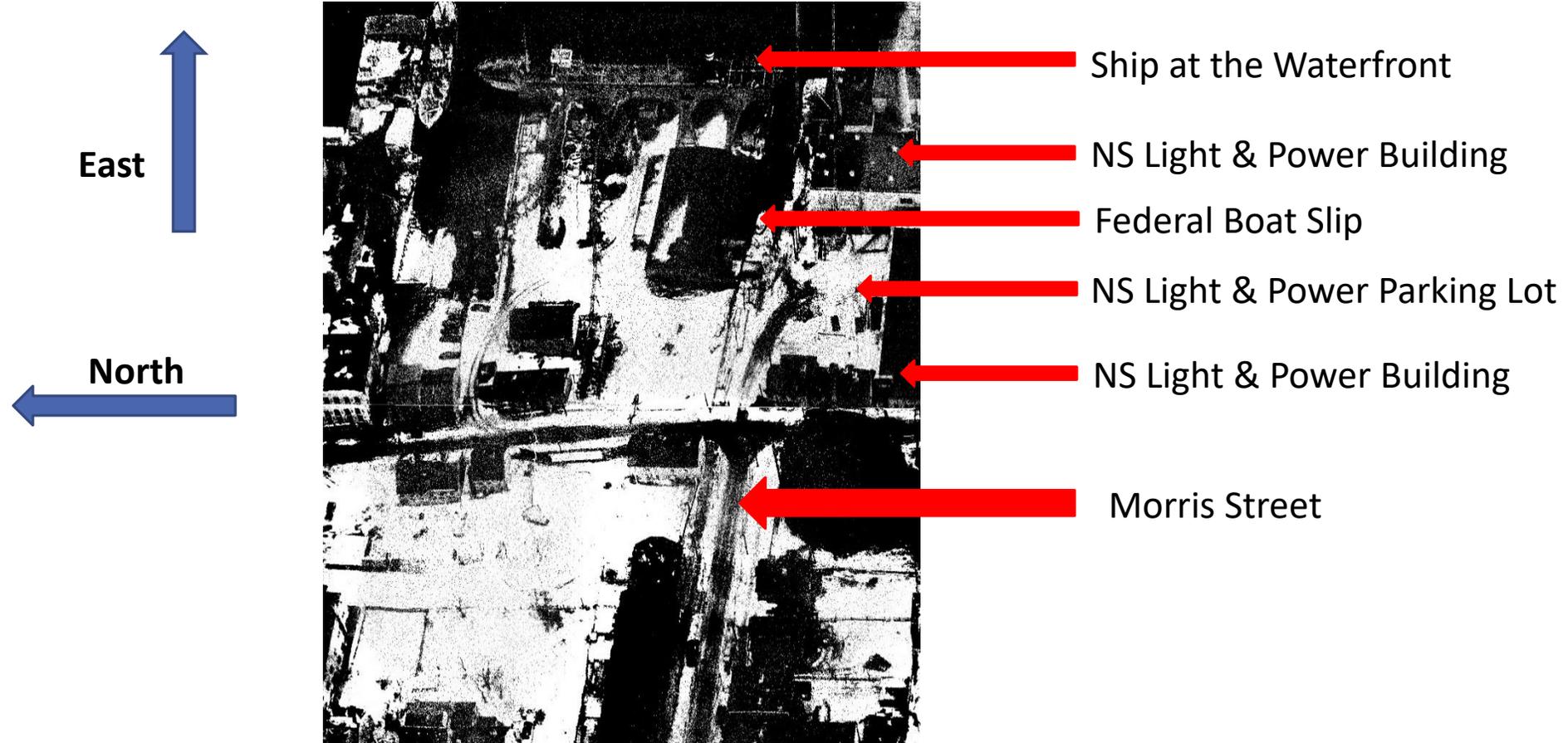
- It is recommended that a wind tunnel study be initiated that investigates the effects of winds up to a full scale speed of 250 km/h, and that this study include instrumentation for measuring the wind speeds on the surrounding buildings as well as the proposed development;
- It is recommended that the higher than desired wind activity for the outdoor amenity areas located on levels 11 and 12 be remedied as per the advice of City Staff.

# Further Consideration (Item 2.10e)

**Item 2.10e** -- “Ensure that public open spaces are provided where the eastward extension of east-west streets intersects the boardwalk. These open spaces shall be accomplished through the use of waterfront view corridors that extend from Lower Water Street to the water’s edge.”

- The intention stated at previous meetings is for the City to provide this corridor by providing land opposite Lower Water Street from Morris Street that extends down towards the waterfront.
- This land may indeed, however, be the property of Nova Scotia Power, according to historical information, such as the aerial photograph (circa 1947) on the next slide that shows clearly Morris Street leading into the parking area of what was then Nova Scotia Light and Power Corporation.
- This would invalidate the city’s intention to provide this land.
- This would also prevent parking access and garbage pickup along the Morris St. extension.
- **Request:** Please provide evidence that the City actually owns the so-called Morris Street extension lands.

# Further Consideration (Item 2.10e)



# Affordable Housing & Open Spaces Issues

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# Municipal Charter re: Bonus Zoning

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Variance #1 (building height) ties into the requirement for affordable housing The Halifax municipal Charter now states:

"(6) Where the land-use by-law provides for incentive or bonus zoning within the Centre Plan Area, the land-use by-law must require the inclusion of affordable housing in a development in addition to any other requirements adopted by the Council, as the contribution for any incentive or bonus zoning applicable to the development. 2008, c. 39, s. 235; 2008, c. 41, s. 4; 2010, c. 16, s. 5; 2013, c. 18, s. 3; 2014, c. 16, s. 6; 2018, c. 9, s. 5; 2018, c. 10, c. 3."

# Municipal Charter re Bonus Zoning

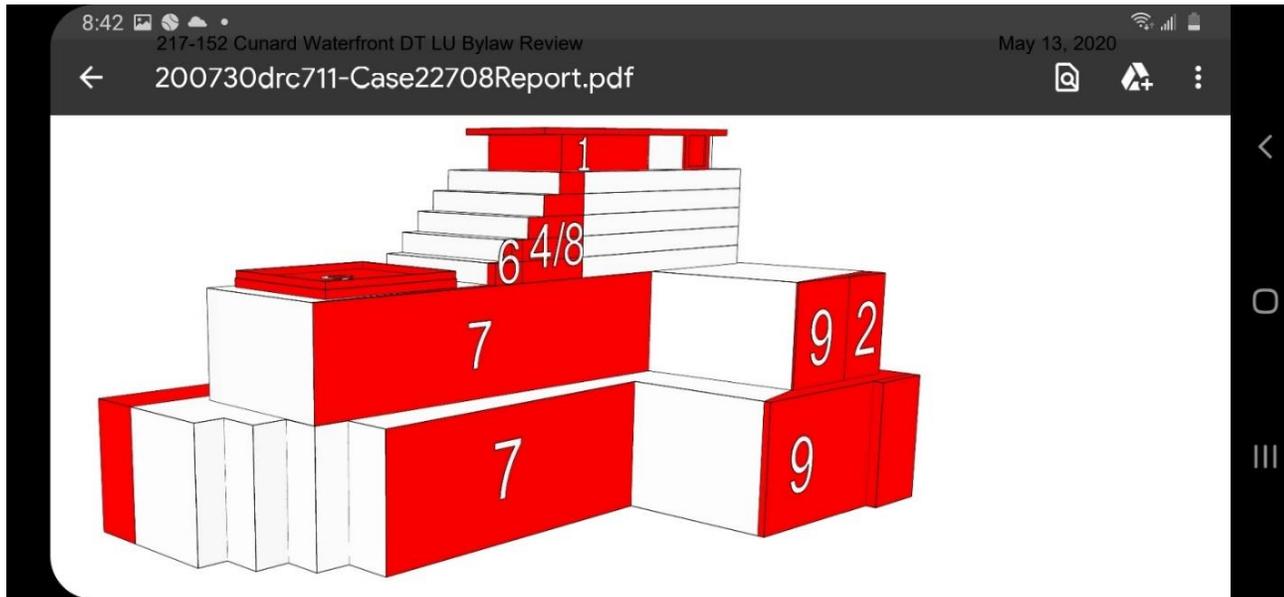
The implication of 3 variances , according to the mathematical formula in the Regional Centre Secondary Municipal Planning Strategy (Package A) states:

## *“10.6 Incentive or Bonus Zoning*

*The calculation to determine public benefit shall apply to 20% of total floor area above 2,000 square metres. The Land Use Bylaw shall establish density bonus rates and districts based on average market land values within each district, multiplied by a coefficient of 0.6. The average market land values shall be updated periodically by a qualified person. The Land Use By-law shall establish a method of calculating the value of incentive or bonus zoning, the value of proposed public benefits, and any other requirements related to the acceptance of public benefits.”*

# Open Space

Variance 9 - Southern Waterfront Section 11(1)(h) Buildings on lots with a streetline width greater than 27.5 metres shall be setback from interior lot lines no less than 10% of the lot width or 8 metres, whichever is less. Where a lot has more than one streetline, the greater lot width shall apply; and clauses (b) through (e) apply to any building or portion thereof within 30 metres of the ordinary high-water mark.



The LAND USE BY-LAW DOWNTOWN HALIFAX defines open space as follows:

*“Open Space Use means the use of land for public and private parks and playgrounds, athletic fields, tennis courts, lawn bowling greens, outdoor skating rinks, picnic areas, cemeteries, day camps, historic sites or monuments, and similar uses to the foregoing, together with the necessary accessory buildings and structures, but does not include commercial camping grounds, golf courses nor a track for the racing of animals or motorized vehicles.”*

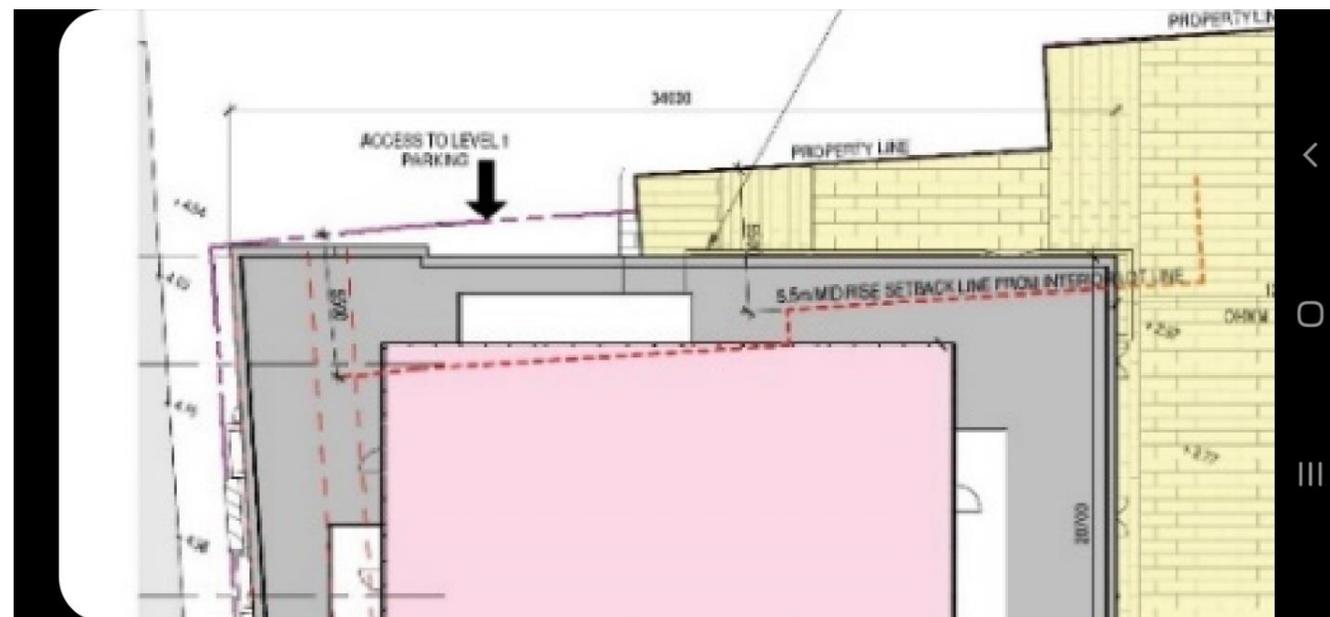
The proposed Cunard Lot Development does not appear to be designed for any of these uses and only houses a few bike racks.



# Issues re: Public Space

You can see in this slide the building hugs the property line restricting access to the open space.

The design does not Create a system of open space that includes: - extensions of east-west streets between Lower Water Street and the Harbour as key components of an open space network; - the boardwalk; - sidewalks along Lower Water Street, and; - plazas and small parks where the extensions of the east-west streets intersect the boardwalk. The L shape of the building prevents visual and physical access from Lower Water Street to the waterfront as the building is massed out to the property boundaries along Lower Water Street due to variance #9 Southern Waterfront Section 11(1)(h) Buildings on lots with a streetline width greater than 27.5 metres shall be setback from interior lot lines no less than 10% of the lot width or 8 metres, whichever is less. Where a lot has more than one streetline, the greater lot width shall apply; and clauses (b) through (e) apply to any building or portion thereof within 30 metres of the ordinary high-water mark.



# Traffic Concerns - On-Site Accessible Parking

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No indication of accessible (handicap) parking identified in DP Drawing Package

Halifax Peninsula Land Use By-law (item 6(2A)) sets requirements for handicap (accessible) parking

Development with between 200 and 300 parking spaces require a minimum of 5 accessible parking spaces (Cunard block currently proposes 229 parking spaces).

# Parking Considerations

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Eliminating 188 parking spaces in existing parking lot

Adding to demand for parking with development

Can create strain on existing infrastructure

Should provide parking options for Halifax residents and visitors to enjoy the waterfront

# Need for Further Studies

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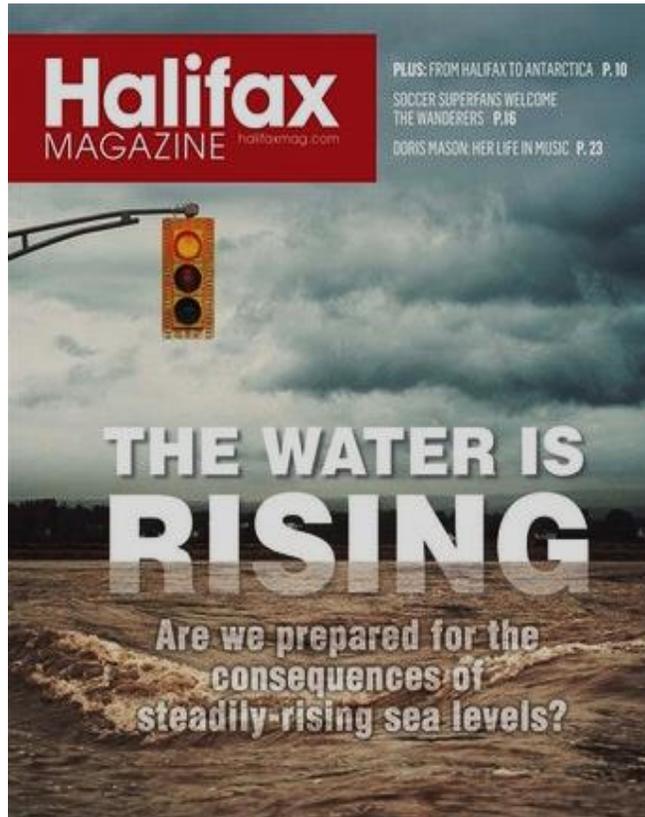
The Transportation Impact Statement (TIS) indicates development is expected to add an additional 108 trips in weekday AM peak and 142 trips in weekday PM peak

The City’s “Guidelines for the Preparation of Transportation Impact Studies” (item 2.02) indicates that further review and mitigation should be conducted to minimize traffic issues if at least 100 peak hour trips are expected

This is especially important due to additional traffic to the north from Queens Marquee

Traffic operations and safety studies should be conducted by the City for the length of Lower Water Street and all connecting streets with consideration for all road users (motorists, pedestrians, cyclists, transit riders) at all ability levels (adults, children, elderly, disabled)

# OTHER ISSUES: ENVIRONMENTAL CONCERNS



Documents available don't specify the geodetic base to determine setup for safety of public, garage users and residents at Cunard.

Is the baseline 2.5 m as at Queens Marque or the new 3.8 m?

4.2 ft. of difference maybe

- Human life vs. death
- Millions of dollars in salt water damage

# Environmental Concerns

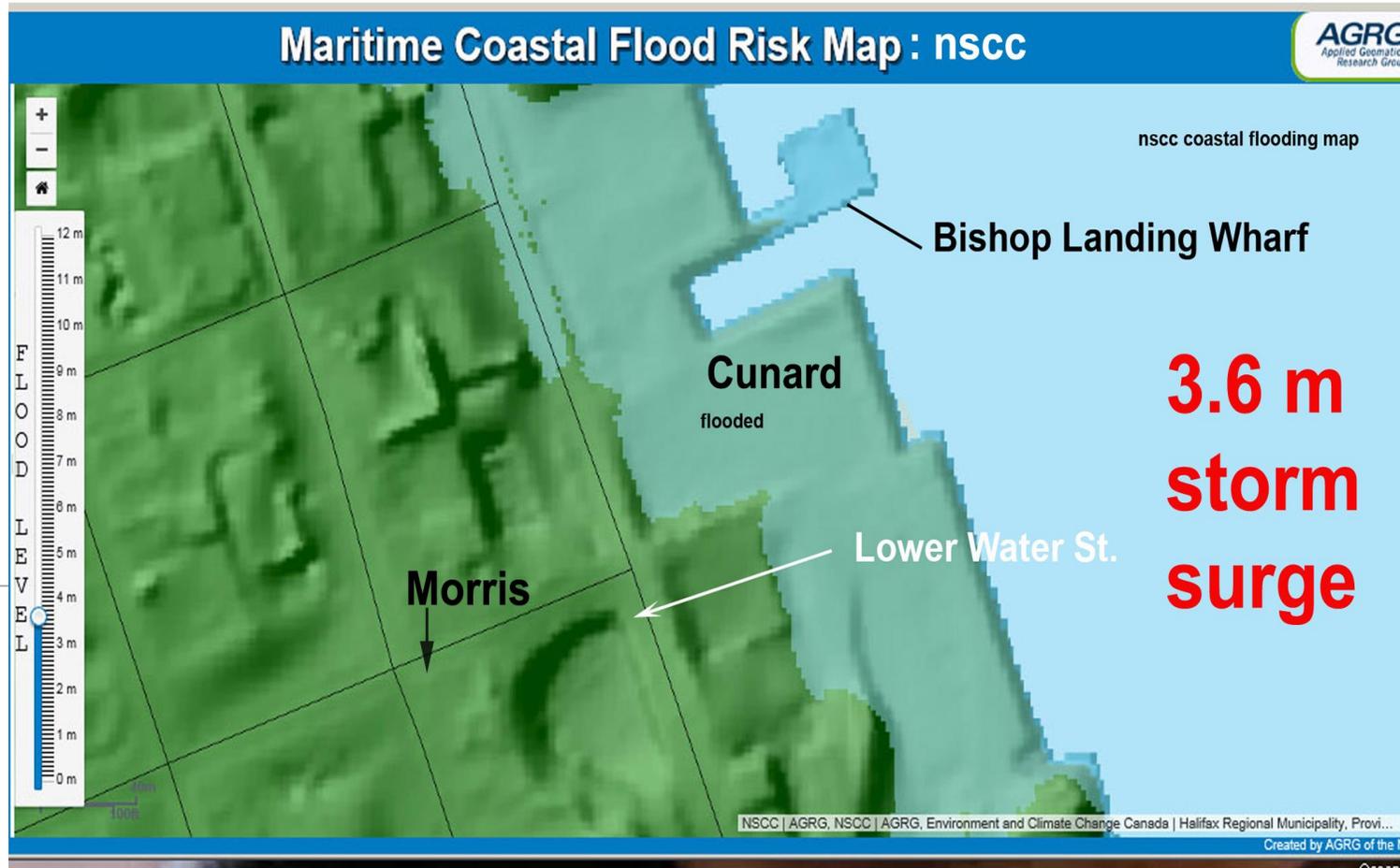
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RISK CONSIDERATION finds “There are **no significant risks** associated with the recommendations contained within this report”.

ENVIRONMENTAL IMPLICATIONS: No environmental implications identified.

**We disagree with these findings about risks and environment as shown in this presentation**

E.g. A small 3.6 m storm surge is higher than 3.2 m height now used in planning



# Center Plan Package A, Nov. 2019, *re. Sea Level Rise*

“the Regional Centre is vulnerable to climate change, extreme weather events, and sea level rise.

**Sea level is projected to rise in the Municipality by 13 cm from 2010 levels by 2030 (3)**

**(3) 13 cm value Refers to Vertical Datum of 2013 (CGVD2013)**

**2013 VALUE IS OUT OF DATE IN TERMS OF NS Coastal Protection Act (3.8 m) setup and ACCELERATING CLIMATE CHANGE**

# Climate is changing fast because Greenland ice is melting

The Intergovernmental Panel on Climate Change (IPCC), now projects 1.3-metre increase in baseline sea level by 2100  
Last time Greenland Icesheet melted, the NS average relative sea level was 6 m higher than now, covering an area more like that of a tsunami, as shown here:



**TIM WEBSTER (NSCC) HAS MAPPED THE WORST CASE --- A TSUNAMI FLOOD 16 M**

**.....OR A 6 M GREENLAND ICESHEET MELTDOWN?**

## Excerpt from: Cunard Waterfront DT LU Bylaw Review

(12) No residential portion of a building on a lot within Schedule W, shall be erected, constructed at an elevation less than **3.8 metres** of the Canadian Geodetic Vertical Datum. First finished residential level of Cunard building is established at +7.12m CGVD. Greenland Icesheet melt adds + 6 m without additional storm parameters (+5.5 m)

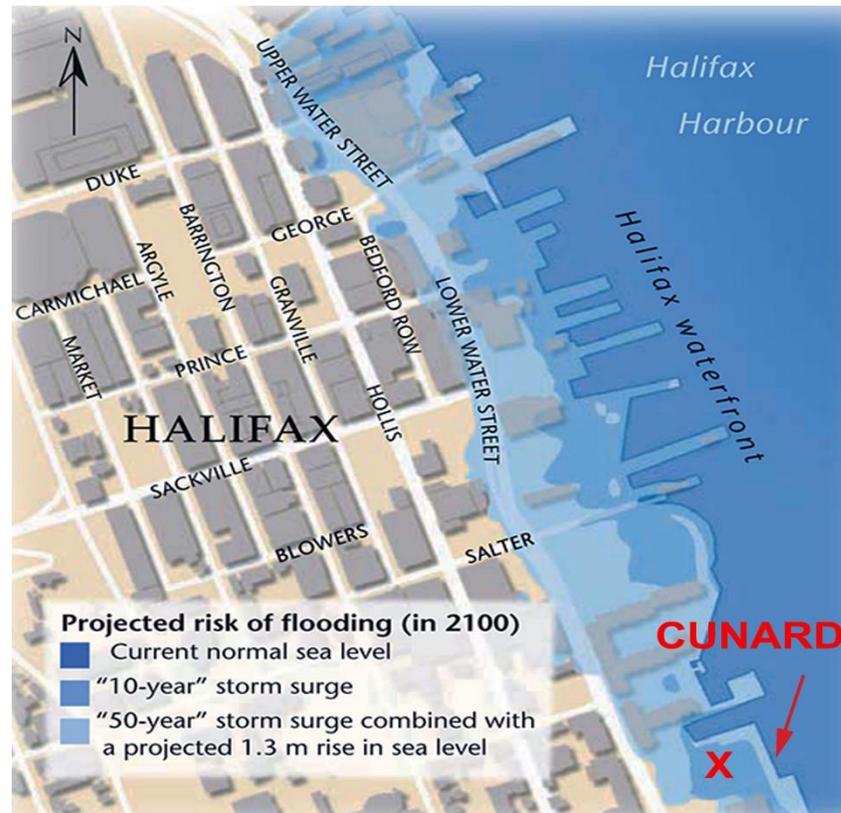
REASON #5 – OTHER CONSIDERATIONS



The model shows  
 1) 3.2m setup used in Cunard plan versus  
 2) potential worst-case flood at a storm tide when Greenland melts

HALIFAX

**IN CONCLUSION, WE ASK “ WAS THE CORRECT VALUE OF 3.8m REQUIRED BY COASTAL PROTECTION ACT USED TO DESIGN A SAFE CUNARD? OR WAS A LESSER VALUE USED?”**



# In Summary



# Summary

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1. Our appeal is based on legislation and the rules - not NIMBYism
2. City Staff Report recommended denial
3. The DRC decision to approve needs to be disregarded
4. The building design does not meet the high qualitative standards of the Design Manual
  1. There is no lively, interactive streetscape on Lower Water Street
  2. It fails to meet Prominent Civic Frontage req'ts on the water side
5. The variances simply don't meet the design manual criteria for acceptance

We have made a very strong case  
This is an easy decision  
The project did not follow the rules  
It must be denied

# Your Duties

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1. Same process/rules as the DRC
2. Apply the Land Use Bylaws
3. Apply S-1 the Design Manual
4. Debate and make a decision on the qualitative aspects
5. Debate and make a decision on each of the variances
6. Grant the appeal, or, approve the project

# Non-Factors in your Decision

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1. “There is too much red tape in our city”
2. “Applicant has invested a lot of time and money – a delay will impose on the applicant”
3. Design is “close enough” or “these variances are minor”
4. “I like the applicant’s other buildings and trust them to build something nice”
5. “This will cause a delay in developing this empty parking lot – we just have to develop it even if it doesn’t follow all the rules”
6. “Develop NS supports the decision”

# The Rules

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The Design Manual and the Land Use Bylaws are what matters

They provide all the guidance required to make your decision

Please rely on the comprehensive City Staff Report which recommended denial

The project **does not follow the rules in the Design Manual and LUB** and it therefore must be **denied**

# Recommended Motion

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“ Accept the appeal ”